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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANTS: Carey Nachenberg and Everett Lai
APPLICATION NO.: 10/046,496
FILING DATE: October 29, 2001 (the USPTO erroneously
stated it to be November 29, 2001)
TITLE: Temporal Access Control for Computer Virus
Outbreaks
EXAMINER: not yet known
GROUP ART UNIT: 2153
ATTY. DKT. NO.: 20423-05957

RECEIVED

MAY 09 2002

OFFICE OF PETITIONS

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts, Commissioner For Patents, Washington, D.C. 20231, on the date shown below:

Dated:

March 14, 2002

By:

Edward J. Radlo

Edward J. Radlo, Reg. No. 26,793

BOX MISSING PARTS
COMMISSIONER FOR PATENTS
WASHINGTON, DC. 20231

PETITION TO RESCIND NOTICE OF MISSING PARTS

SIR:

Enclosed is a copy of the Notice to File Missing Parts
of Nonprovisional Application mailed by the USPTO on February
28, 2002.

Said Notice alleges that:

- The signature of inventor Carey Nachenberg was missing from the Declaration mailed with the original patent application; and
- Figures 4, 5, and 7 were missing from the original patent application.

Applicants hereby petition that the Notice to File Missing Parts be rescinded, since both of the above items were in fact included with the original patent application.

With respect to the Declaration, our law firm's file copy of the Declaration shows that the signature of inventor Nachenberg is in fact present thereon. A copy of this Declaration from our file is enclosed. Furthermore, said Declaration shows that inventor Nachenberg executed the Declaration on October 25, 2001, the same day as inventor Lai and four days before our office mailed the patent application to the United States Patent and Trademark Office using the Express Mail procedure. This is further evidence that inventor Nachenberg's signature was present on the original Declaration, because it would not have made any sense for us to have stripped inventor Nachenberg's signature from the Declaration when mailing it to the USPTO while keeping inventor Lai's signature intact. Furthermore, the New Utility Patent Application Transmittal that we mailed to the USPTO on October 29, 2001 (copy enclosed) shows that there were three pages to the "Combined Declaration & Power of Attorney" that we sent in, and that it was "Executed".

With respect to the drawings, our file contains three copies of the set of drawings. All three correctly contain all eight sheets of drawings, including the Figures 4, 5, and 7 that the USPTO alleges are missing. An extra copy of each of Figures 4, 5, and 7 is enclosed herewith. Furthermore, the New Utility Patent Application Transmittal (copy enclosed) shows that we sent in all eight sheets of drawings. Furthermore, the postcard that we sent in to the USPTO (copy enclosed) shows that we sent in all eight sheets of drawings to the USPTO.

For the above reasons, the USPTO is asked to rescind the Notice to File Missing Parts.

Respectfully submitted,

date of signature: March 14, 2002 Edward J. Radlo
Edward J. Radlo, Reg. No. 26,793
Attorney of Record

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306
Tel.: (650) 858-7142

encl.

cc: C. Nachenberg (w/encl.)
M. Noto "

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MAY 09 2002

OFFICE OF PETITIONS



MP \$
+

PTO/SB/21 (modified)
Approved for use through xx/xx/xx, OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM <i>(to be used for all correspondence during pendency of filed application)</i>	Application Number	10/046,496	
	Filing Date	October 29, 2001 (the USPTO erroneously stated it to be Nov. 29, 2001)	
	First Named Inventor	Carey Nachenberg	
	Group Art Unit Number	2153	
	Examiner Name	not yet known	
Total Number of Pages in This Submission	16	Attorney Docket Number	20423-05957

ENCLOSURES (check all that apply)	
<input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate) <input checked="" type="checkbox"/> Check Enclosed	<input type="checkbox"/> Issue Fee Transmittal
<input checked="" type="checkbox"/> Return Receipt Postcard	<input type="checkbox"/> Letter to Chief Draftsperson
<input checked="" type="checkbox"/> Response to Notice to File Missing Parts (Petition)	<input checked="" type="checkbox"/> Drawings (copies): (3 sheets) Figures 4, 5, and 7
<input type="checkbox"/> Assignment & Recordation Cover Sheet	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Combined Declaration and Power of Attorney	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Power of Attorney	<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Application Data Sheet	<input type="checkbox"/> Petition to Accept Allegedly Missing Parts
<input type="checkbox"/> Information Disclosure Statement & PTO-1449 <input type="checkbox"/> Copies of IDS Cited References	<input type="checkbox"/>
<input type="checkbox"/> Request for Corrected Filing Receipt	<input type="checkbox"/>
<input type="checkbox"/> Request for Correction of Recorded Assignment	<input type="checkbox"/>
<input type="checkbox"/> Amendment/Response: [] Page(s) <input type="checkbox"/> After Final	<input type="checkbox"/>
<input type="checkbox"/> Status Request	<input type="checkbox"/>
<input type="checkbox"/> Revocation and Substitute Power of Attorney	<input type="checkbox"/>

REMARKS:

SIGNATURE OF ATTORNEY OR AGENT		
Signature:		
Attorney/Reg. No.:	Edward J. Radlo / Reg. No. 26793	Dated: March 14, 2002

CERTIFICATE OF MAILING		
I hereby certify that this correspondence, including the enclosures identified above, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.		
Signature:		
Typed or Printed Name:	Edward J. Radlo	Dated: March 14, 2002
Express Mail Mailing Number (optional):		



PTO/SB/17 (10-01)(modified)

OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

0002/PTO(modified)
Rev. 10/2001U.S. Department of Commerce
Patent and Trademark Office**Complete if Known**

Application Number	10/046,496
Filing Date	October 29, 2001 (the USPTO erroneously stated it to be November 29, 2001)
First Named Inventor	Carey Nachenberg
Group Art Unit	2153
Examiner Name	not yet known
Attorney Docket Number	20423-05957

FEE TRANSMITTAL**TOTAL AMOUNT OF PAYMENT**Subtotal (1) + Subtotal (2) + Subtotal (3) = **\$ 130.00****METHOD OF PAYMENT****1. The Commissioner is hereby authorized to:**

- ☐ Charge the indicated fees to the below mentioned deposit account.
- ☒ Charge any additional fee required under 37 CFR 1.16 - 1.21 or credit any over payments to the below mentioned deposit account. †
- ☐ Applicant claims small entity status
See 37 CFR 1.27

Deposit Account Number: 19-2555

Deposit Account Name: FENWICK & WEST LLP

A Duplicate Copy of this authorization is attached

2. ☒ Payment Enclosed:☒ Check ☐ Credit Card ☐ Other**FEE CALCULATION (fees effective 10/01/2001)****1. FILING FEE**

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description	Fee Due
101/\$740	201/\$370	Utility Filing	<input type="text"/>
106/\$330	206/\$165	Design Filing	<input type="text"/>
108/\$740	208/\$370	Reissue	<input type="text"/>
114/\$160	214/\$80	Provisional Filing	<input type="text"/>
SUBTOTAL (1)			(\$)

2. CLAIMS

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description
103/\$18	203/\$9	Claims in excess of 20
102/\$84	202/\$42	Independent claims in excess of 3
104/\$280	204/\$140	Multiple dependent claim
109/\$84	209/\$42	Reissue independent claims over original patent
110/\$18	210/\$9	Reissue claims in excess of 20 and over original patent

3. ADDITIONAL FEES

Large Entity Fee Code/Fee	Small Entity Fee Code/Fee	Fee Description	Fee Due
105/\$130	205/\$65	Surcharge - late filing fee or oath	<input type="text"/>
127/\$50	227/\$25	Surcharge-late provisional filing fee or cover sheet	<input type="text"/>
147/\$2,520	147/\$2,520	For filing a request for reexamination	<input type="text"/>
115/\$110	215/\$55	Extension for response within first month†	<input type="text"/>
116/\$400	216/\$200	Extension for response within second month†	<input type="text"/>
117/\$920	217/\$460	Extension for response within third month†	<input type="text"/>
118/\$1,440	218/\$720	Extension for response within fourth month†	<input type="text"/>
128/\$1,960	228/\$980	Extension for response within fifth month†	<input type="text"/>
119/\$320	219/\$160	Notice of Appeal	<input type="text"/>
141/\$1,280	241/\$640	Petition to revive unintentionally abandoned application	<input type="text"/>
142/\$1,280	242/\$640	Utility Issue Fee (Or Reissue)	<input type="text"/>
143/\$460	243/\$230	Design Issue Fee	<input type="text"/>
122/\$130	122/\$130	Petitions to the Commissioner	130
126/\$180	126/\$180	Submission of Information Disclosure Statement	<input type="text"/>
179/\$740	279/\$370	Request for Continued Examination (RCE)	<input type="text"/>
581/\$40	581/\$40	Recording each patent assignment per property (times number of properties)	<input type="text"/>
146/\$740	246/\$370	Filing a submission after final rejection (37 CFR 1.129(a))	<input type="text"/>
149/\$740	249/\$370	For each additional invention to be examined (37 CFR 1.129(b))	<input type="text"/>
Other fee (specify):			<input type="text"/>
Other fee (specify):			<input type="text"/>
SUBTOTAL (3)			\$ 130.00

(Col. 1)		(Col. 2)		(Col. 3)			
For	No. of Existing Claims		Highest No. Previously Paid For		Extra**	Fee	Fee Due
TOTAL		minus*	20 or 0	=		x	=
INDEP		minus*	3 or 0	=		x	=
[] First presentation of multiple dependent claim							

* Subtract the greater number of Col. 2

** If the difference between Col. 1 and Col. 2 is less than zero, then enter "0" in Col. 3

SUBTOTAL (2) **(\$)****SUBMITTED BY**Typed or Printed Name **Edward J. Radio**

Signature

Complete (if applicable)Reg. Number **26,793**

Date

March 14, 2002

† Request for Extension of Time per 37 CFR 1.136 (a)(3) made hereby

20423/05957/DOCS/1251984.1



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/046,496	11/29/2001	Carey Nachenberg	20423-05957

00758
FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO, CA 94306



Oct 29, 2001

CONFIRMATION NO. 3384

FORMALITIES LETTER



OC000000007554710

Date Mailed: 02/28/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The signature of the following inventor(s) is missing from the oath or declaration:
Carey Nachenberg
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **4,5 and 7** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of

deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

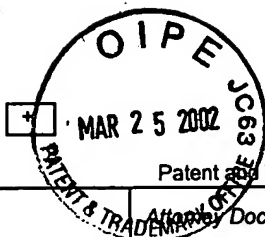
*A copy of this notice **MUST** be returned with the reply.*


Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Please type a plus sign (+) inside this box →



PTO/SB/05 (08-00) (modified)

Approved for use through 9/30/2001, OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

NEW UTILITY PATENT APPLICATION TRANSMITTAL <i>(only for new nonprovisional applications under 37 CFR 1.53(b))</i>	Attorney Docket Number	20423-05957
	First Named Inventor	Carey Nachenberg
	Title	Temporal Access Control For Computer Virus Outbreaks
	Express Mail Label No.	EL566298875US

APPLICATION ELEMENTS	ACCOMPANYING APPLICATION PARTS
1. <input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate) 2. <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27 3. <input checked="" type="checkbox"/> Specification Total Pages 44 <i>(preferred arrangement set forth below)</i> <input type="checkbox"/> Descriptive Title of the Invention <input type="checkbox"/> Cross Reference(s) to Related Case(s) <input type="checkbox"/> Statement Regarding Fed sponsored R & D <input type="checkbox"/> Background of the Invention <input type="checkbox"/> Brief Summary of the Invention <input type="checkbox"/> Brief Description of the Drawing(s) <input type="checkbox"/> Detailed Description <input type="checkbox"/> Claim or Claims <input type="checkbox"/> Abstract of the Disclosure 4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) Total Sheets 8 5. Oath or Declaration a. <input checked="" type="checkbox"/> Combined Declaration & Total Pages 3 Power of Attorney <input checked="" type="checkbox"/> Executed (original or copy) b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <i>(for continuation/divisional with Box 18 completed)</i> i. <input type="checkbox"/> DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b). 6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76	7. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s)) 8. <input type="checkbox"/> Certified Copy of Priority Document(s) <i>(if foreign priority is claimed)</i> 9. <input type="checkbox"/> Power of Attorney or Authorization of Agent 10. <input type="checkbox"/> 37 CFR 3.73(b) Statement 11. <input type="checkbox"/> Preliminary Amendment 12. <input type="checkbox"/> Information Disclosure Statement & PTO-1449 <input type="checkbox"/> Copies of IDS Citation(s) 13. <input checked="" type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent 14. <input checked="" type="checkbox"/> Return Postcard 15. <input checked="" type="checkbox"/> Limited Recognition Under 37 CFR §10.9(b) 16. <input type="checkbox"/> 17. <input type="checkbox"/>
ADDRESS TO: Box Patent Application Commissioner for Patents Washington, D.C. 20231	

18. If a **CONTINUING APPLICATION**, check appropriate box and supply the requisite information below and in a preliminary amendment or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: ____/____

Prior application information: Examiner: _____ Group/Art Unit: _____

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuing or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number and Bar Code
Label

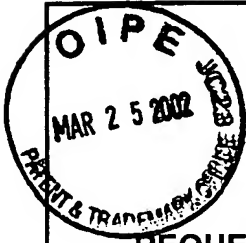


00758

Name (Print/Type)	Jing He	Registration No. (Attorney/Agent)	Rule 10.9(b)
Signature	<i>Jing He</i>	Date	Octob r 29 , 2001

CP 2153 #4

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



**REQUEST TO RESCIND PREVIOUS
NONPUBLICATION REQUEST
35 U.S.C. 122(b)(2)(B)(ii)**

RECEIVED
MAR 29 2002

Technology Center 2600

Application Number		10/046,496
Filing Date		October 29, 2001 (the USPTO erroneously stated it to be Nov. 29, 2001)
First Named Inventor		Carey Nachenberg
Title	Temporal Access Control For Computer Virus Outbreaks	
Atty Docket Number		20423-05957
Group Art Unit		2153
Examiner		not yet known

I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

March 13, 2002
Date

RECEIVED
MAR 29 2002

Edward J. Radlo
Signature

Technology Center 2600 Edward J. Radlo, Reg. No. 26,793
Typed or printed name/Registration Number

This request must be signed in compliance with 37 CFR 1.33(b).

Note: Filing this rescission of a previous nonpublication is considered the notice of a subsequent foreign or international filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five days (45) days after the date of filing such foreign or international application. See 37 CFR 1.137(f) if a notice of subsequent foreign or international filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is not filed within forty-five days (45) days after the date of filing of the foreign or international application.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box PG Pub, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name (Print/Type): Edward J. Radlo	
Signature <u>Edward J. Radlo</u>	Date <u>March 13, 2002</u>

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

cc: M. Noto
C. Nachenberg

Date Mailed: October 29, 2001	Atty/Sec: JH:lm	Filing Date: Herewith
Application No.:		Docket No.: 20423-05957
Applicants: Carey Nachenberg and Everett Lai		
Title: Temporal Access Control For Computer Virus Outbreaks		
Please imprint Patent Office "date stamp" hereon to indicate receipt and return card to addressee.		
<input checked="" type="checkbox"/> 44 pages of Specification, Claims & Abstract	<input checked="" type="checkbox"/> Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i).	
<input checked="" type="checkbox"/> 8 sheets of formal drawings	<input type="checkbox"/> Response to Notice Of Missing Parts	
<input type="checkbox"/> Provisional Application Cover Sheet	<input type="checkbox"/> Request to Correct Filing Receipt	
<input checked="" type="checkbox"/> New Utility Application Transmittal	<input type="checkbox"/> Request for Correction of Recorded Assignment	
<input type="checkbox"/> Transmittal	<input type="checkbox"/> IDS, PTO-1449, and cited references	
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<input checked="" type="checkbox"/> Assignment & Recordation Cover Sheet	<input type="checkbox"/> Formal Drawings: __ sheets	
<input type="checkbox"/> Power of Attorney	<input type="checkbox"/> Request for Certificate of Correction	
<input type="checkbox"/> CPA Request Transmittal	<input checked="" type="checkbox"/> Limited Recognition Under CFR 10.9(b)	
<input type="checkbox"/> Application Data Sheet	<input checked="" type="checkbox"/> Express Mail No. EL566298875US	
<input checked="" type="checkbox"/> Check in the amount of \$ 1,518.00		
<input type="checkbox"/> Amendment/Response		
Other _____		
20423/05957/DOCS/1219421.1		